



## ARIZONA DEPARTMENT OF WEIGHTS AND MEASURES

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November 23, 2005

### **Re: Vapor Recovery Program – Industry meetings to resolve interpretation issues**

To our valued stakeholders:

Thank you all for taking the time to participate in the meetings and conference call hosted by the Department to discuss issues concerning the vapor recovery program. After considerable discussion, I would like to offer the following solutions.

The Department is charged with enforcing the requirements of the Stage II vapor recovery (VR) program per statute and rule. From the beginning of this program in 1992, the Department has required witnessed tests throughout the range of tests specified in rule. While our resources are limited, our goal is to inspect or re-inspect *each* gasoline dispensing facility (GDF) in conjunction with the testing contractor. All witnessed annual tests are to have a compliant outcome. It is still the Department's goal to ultimately allow un-witnessed tests.

Towards this end, we have implemented training and testing of RSA/RSR's electing to test VR equipped GDF's. Thus far, RSA/RSR's have failed 40% of the administered exams. We have modified the training and the test with minimal improvements in the results, but continue to work with the testing community to improve their performance. The VR alerts resulted from this program as a major component of ongoing training and communication. The alerts are posted on our website, and we will be happy to distribute the alerts beyond the VR RSA/RSR community.

The proficiency of this sector directly impacts the compliance rate of the industry as a whole. The tests are scheduled by industry in advance, the basic requirements are clear, and yet a 90% compliance rate of Stage II annual tests has not been obtained. Compliance inspections conducted by the department between annual tests, even at those GDF's that participate in the Voluntary Compliance Inspection program, indicate a lack of proper maintenance and a 54% failure rate.

Self-regulation is key, especially in an environment where operating efficiently is tantamount to success. Yet, it is interesting to note that of the 170 non-witnessed tests we have allowed not one site or component has ever failed a test despite the aforementioned performance statistics.

While it is evident the marketplace is not at a point yet to initiate non-witnessed testing, we will continue to work with all members of industry towards this important goal. Your assistance is required in this endeavor. The market must play a role in ensuring the success of the fittest players – those who exercise proficiency in performing their responsibilities for their customers by being knowledgeable and prudent in following state requirements.

We will do our part by ensuring staff availability so as to minimize interruptions in your operations. Over the last year, the Department has doubled the number of staff able to witness a re-inspection. By the same token, we have noted that even the retailer with the largest market share only has two people to perform all pre-testing and conduct annual tests. While the regulator is the easy target, the solution ultimately lies in a pro-active maintenance program supported by an appropriate level of qualified staff internally or an accountable supplier. This is a critical area of compliance that requires the availability of resources on all sides.

Originally, the annual test for a GDF was prescribed by an “annual test date” that related to the day of the last compliant VR annual test. The Department actually relaxed that requirement by opening up the testing options to the month of the last compliant VR annual test. Testing contractors schedule a test for a given site within that month and the Department approves that date.

The hold open latch is not a requirement but, if a nozzle with a hold open latch is installed it must be operational. This requirement is effective throughout the state and has no more significant impact to a VR equipped GDF than a station outside of the VR area.

The replacement of rubber flexible hoses under the dispensers only makes sense given the choice of material for that component in the CARB EO. The option of hard piping cannot equate to rubber hose and radiator style hose clamps. Local fire jurisdictions have concurred the use of non-threaded flexible connectors is not appropriate.

Lastly, our willingness to work with industry to achieve compliance remains constant. We will relax the testing requirement for components that are replaced during the course of routine maintenance providing the retailer completes the daily maintenance log. The Department has no intention of requiring all VR tests to be conducted when any VR component is repaired or replaced.

If you have further questions or comments, we would be happy to discuss them with you.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Art Macias, Jr.", written in a cursive style.

J. Art Macias, Jr.  
Director